



Entered on Docket
July 16, 2010


Hon. Gregg W. Zive
United States Bankruptcy Judge

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MB Financial Bank

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In Re:

Chapter 7

WES CONSTRUCTION COMPANY,
INC., a Nevada corporation,

CASE NO. BK-N-09-52177-GWZ
BK-N-09-52178-GWZ
BK-N-09-52181-GWZ

HEAVY EQUIPMENT SERVICES, LLC
A Nevada limited liability company,

(Jointly administered under 09-52177)

TRUCKING SERVICES, LLC,
A Nevada limited liability company,

**ORDER RE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' MOTION
FOR ORDER 1) RECONSIDERING
ORDERS APPROVING CHAPTER 7
TRUSTEE'S EX PARTE APPLICATIONS
TO EMPLOY AND TO PAY STEVE
BENNYHOFF, ETC.**

Debtors.

Hearing Date: June 21, 2010
Hearing Time: 2:00 p.m.

1 A hearing on the “Official Committee of Unsecured Creditors” Motion For Order 1)
 2 Reconsidering Orders Approving Chapter 7 Trustee’s Ex Parte Applications To Employ and To
 3 Pay Steve Bennyhoff 2) Requiring Mr. Bennyhoff to Disgorge Fees Paid to Him During the
 4 Chapter 11 Phase of This Case; and 3) Providing For the Continuance of the §1102(a)(1)
 5 Unsecured Creditors’ Committee (“Committee Motion”) came on regularly for hearing on June
 6 21, 2010, at 2:00 p.m., John White of White Law Chartered appearing on behalf of Movants,
 7 members of the former Chapter 11 Creditors’ Committee (“Committee”); Laury M. Macauley,
 8 Esq. of Lewis and Roca LLP appearing on behalf of secured creditor, MB Financial Bank;
 9 Jeffrey L. Hartman of Hartman & Hartman, appearing on behalf of the Chapter 7 trustee, Keith J.
 10 Tierney, and Keith J. Tierney, the Chapter 7 trustee (“Trustee”), appearing.
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12 The Court having considered the pleadings filed relating to the Committee Motion and
 13 the oral argument of counsel,

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

15 1) The Committee Motion is denied insofar as it seeks the establishment of an
 16 official creditors’ committee during this Chapter 7 case;

17 2) The remaining relief sought by the Committee Motion is taken under advisement
 18 by the Court;

19 3) On or before June 25, 2010, Steve Bennyhoff shall file a verified statement
 20 regarding his disinterestedness in support of his application for employment by the Trustee, in
 21 accordance with Federal Rule of Bankruptcy Procedure 2014;

22 4) On or before July 19, 2010, John White may file a responsive pleading regarding
 23 the verified statement filed by Mr. Bennyhoff; and

1 5) The Court expressly reserves the right to review all fees and costs incurred by Mr.
2 Bennyhoff after April 23, 2010, the date of the filing of the Committee Motion.
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5 Submitted by:
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15 APPROVED/DISAPPROVED

16 By /s/ John White via email
17 John White
18 Attorney for Unsecured Creditors
19

20 APPROVED/DISAPPROVED

21 By /s/ Jeff Hartman via email
22 Jeffrey L. Hartman
23 Special Counsel for the
24 Chapter 7 trustee
25

26 APPROVED/DISAPPROVED

17 By /s/ Keith J. Tierney via email
18 Keith J. Tierney
19 Chapter 7 Trustee
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